

DOCKETED

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ORDINANCE NO. 1289

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILL VALLEY AMENDING TITLE 14 (BUILDING AND CONSTRUCTION) OF THE MILL VALLEY MUNICIPAL CODE TO ADD CHAPTER 14.48 ESTABLISHING GREEN BUILDING REQUIREMENTS AND AMENDING TITLE 20 (ZONING) OF THE MILL VALLEY MUNICIPAL CODE DELETING CHAPTER 20.95 "GREEN BUILDING"

SECTION 1: FINDINGS

WHEREAS, the design, construction and operation of buildings and structures within the City can have a significant impact on the City's environmental sustainability, resource usage, energy efficiency, waste management and the health and productivity of residents, workers and visitors; and

WHEREAS, the design, construction and operation of buildings and structures have far-reaching effects on the region and globally through production of greenhouse gases resulting in global climate change and the consumption of resources that result in damage to and loss of wildlife habitat; and

WHEREAS, green building benefits are spread throughout the systems and features of the building. Green buildings can include, among other things, the use of certified sustainable wood products, extensive use of high-recycled-content products; recycling of waste that occurs during deconstruction, demolition and construction; orientation and design of a building to reduce the demand on the heating, ventilating, and air conditioning systems; the use of heating, ventilating, and air conditioning systems that provide energy efficiency and improved air quality; enhancement of indoor air quality by selection and use of construction materials that do not emit chemicals that are toxic or irritating to building occupants; the use of water conserving methods and equipment; and installation of alternative energy methods for supplemental energy production; and

WHEREAS, by requiring buildings within the City of Mill Valley to be constructed in an environmentally responsible manner, the City is participating in global endeavors to reduce waste generation, habitat loss and emissions of carbon dioxide, sulfur dioxide, and nitrogen dioxide; and

WHEREAS, green building benefit building industry professionals, residents, and communities by improving construction quality and building durability; reducing utility, maintenance, water and energy costs; creating healthier homes; and

WHEREAS, the City of Mill Valley's General Plan sets forth goals for preserving and improving the natural and built environment of the City, protecting the health of its residents and visitors and fostering its economy; and

WHEREAS, the City of Mill Valley has adopted a Climate Action Plan as part of its General Plan, which includes numerous programs for implementation to reduce the City's Greenhouse Gas emissions, including program CL.1-5, "Update the City's green building ordinance to support best practices and other available green building standards to conserve energy and resources"; and

WHEREAS, the proposed amendments will promote the public health, safety and general welfare by reducing impacts on respiratory health and chemical sensitivity of residents and visitors, reducing production of greenhouse gases, reducing impacts on wildlife and vegetative habitats and reducing generation and land filling of waste products; and

WHEREAS, in recent years, green building design, construction and operational techniques have become increasingly widespread, with new building Standards adopted as part of the California Building Standards Code; and

WHEREAS, the proposed Ordinance will require all applicable construction projects to consume no more energy than is permitted by (Title 24) Part 6.

WHEREAS, the City of Mill Valley is a built-out community with few vacant parcels. Most "new construction" projects relate to major remodels or tear downs in which a dwelling is significantly renovated with structural modifications or additions over 50% of the current square footage of the dwelling and/or exterior roof structure and exterior walls.

WHEREAS, the City of Mill Valley is authorized by statute to adopt local amendments, additions or deletions to the California Green Building Standards Code when determined reasonably necessary by the Mill Valley City Council because of local climatic (Zone 3), geological, topographical or environmental conditions (including floodway, floodplain, and Wildland Urban Interface areas), provided the procedures and effective date of local amendments coincide with the procedures and effective date of the California Building Standards Code; and

WHEREAS, adoption of the California Green Building Standards Code Appendices (or Tiers) promotes statewide consistency and predictability for building professionals.

WHEREAS, it has been determined that these amendments are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15308 of the CEQA Guidelines which exempt changes in land use regulations intended for the protection of the environment. The proposed regulations would reduce local, regional and global impacts on air and water quality, resource consumption, waste generation and habitat change; and

SECTION 2:

Chapter 14.48 is hereby added to the Mill Valley Municipal Code as follows:

Chapter 14.48

Green Building Standards

14.048.010 California Green Building Standards Code Adopted by Reference.

The 2016 Edition of the California Green Building Standards Code, known as the California Code of Regulations, Title 24, Part 11, including Appendix Chapter A4 (Residential Voluntary Measures) at Tier 1 levels for new construction (defined in 14.048.030), and Appendix Chapter A5 (Nonresidential Voluntary Measures) at Tier 1 levels for new construction (defined in 14.048.030) based on the local amendments further defined below.

14.048.020 Local Amendments to the California Green Building Standards Code.

Based upon the findings of the City Council regarding local climatic, topographical and environmental conditions, the following sections and subsections of the 2016 California Green Building Standards Code ("CALGreen" Code) are amended to read as follows:

14.048.030 Definitions. The following definitions apply to Section 14.48, "Green Building."

A. "Certified Green Building Rater" means a person acting as the owner's agent to ensure compliance with green building requirements. Those persons representing national and regional green building organizations including, but not limited to, CalGreen, Build it Green and LEED, are considered certified green building raters.

C. "Green Building Compliance Form" means the signature page submitted to the City signed by a Certified Green Building Rater, indicating that applicable project complies with the City's Green Building requirements.

D. "New" or "Newly Constructed" means the production of a new or replacement building(s) and major remodels.

E. "Major remodel" means structural modifications or additions made to a dwelling, which are greater than 50% of either: (1) the current square footage of such dwelling; or (2) the current exterior roof structure and exterior walls of such dwelling.

F. "Remodel, minor" means modifications or additions made to a dwelling which are not considered to be a major remodel by definition.

14.048.040 Green Building Requirements, by Project Type. This Chapter shall apply to the following redevelopment projects:

A. Non-Residential Projects. New or newly constructed non-residential projects including city facilities and private non-residential projects shall satisfy Tier 1 levels for new construction, excluding Division 5.2 Energy Efficiency.

B. Single-Family Residential Projects. New or newly constructed single-family residential projects shall satisfy Tier 1 requirements, referred to as "Low-rise Residential" in the CalGreen Code, including Division A4.2 Energy Efficiency.

C. Multi-Family Residential Projects. New or newly constructed multi-family residential projects shall satisfy Tier 1 levels, referred to as "High-rise Residential" in the CalGreen Code, including Division A4.2 Energy Efficiency at 10% energy reduction levels.

D. Mixed-Use (Commercial with Residential) Projects. New or newly constructed mixed-use projects shall satisfy Tier 1 levels for new construction, and include Division A4.2 Energy Efficiency for the applicable residential portion of the new construction.

14.048.050 Documentation and Verification. All covered projects shall comply with the requirements set forth in Section 14.048.040 through the following verification methods.

A. Verification of Compliance All covered projects must comply with green building requirements as part of the building permit and plan check process. A certified Green Building Rater shall verify compliance by submitting signatures on the Green Building Compliance Form at the time of building permit application and as part of final inspection. When a building permit is applied for, checklists must be filled out by a Green Building Rater and included with the

submittal package. The checklist shall be reviewed for accuracy the Planning and Building Department. The Building Department will review the checklist prior to issuance of a building permit. Building plans shall indicate in the general notes or individual detail drawings, where appropriate, the green building measures to be used to satisfy the Green Building requirements. Prior to final inspection, checklists must be verified by a Green Building Rater as completed and final work satisfying the green building requirements. Any changes or modifications to the checklists must be verified and approved by the Green Building Rater. Documentation and verification shall be collected by the Green Building Raters. During the permit and inspection process, building staff may request to review some or all of the green building documentation.

B. Costs of Documentation and Verification. All costs for inspections, documentation and verification of compliance with green building requirements, including the hiring of a Certified Green Building Rater, a certified commissioner, or certified home performance contractors, shall be borne by the applicant for a building permit.

14.048.060 Exemptions.

A. This section shall not apply to:

Any project that received and maintains a valid planning approval or a building permit or which has submitted a complete planning application or building permit application prior to the effective date of this Chapter unless otherwise required as a condition of approval of a discretionary land use or zoning permit.

B. Hardship or Infeasibility. An exemption from the Standards for Compliance may be granted by the Community Development Director under special circumstances. Such circumstances may include, but are not limited to the following:

- 1. Availability.** Lack of green building materials and/or technology to comply with green building requirements;
- 2. Scope of Project.** The scope of the covered project is insufficient to comply with the green building standards.
- 3. Conflict with other Provisions.** There is conflict between green building requirements and other building or zoning standards or other City goals, such as those requiring historic preservation;
- 4. Historic Preservation.** Those projects requesting an exemption based on the historic character of a building, site or historic overlay zoning designation shall provide a written request to the Director of Planning & Building regarding the exemption, and describe how the project is consistent with the Secretary of the Interior's Standards for Historic Rehabilitation and/or Chapter 20.54 "Historic Overlay District" zoning requirements.

C. Process. A covered project must qualify as exempt from the requirements in this Chapter by applying for an exemption at the time a planning or building permit application is submitted, whichever occurs first. The applicant shall indicate the maximum threshold of compliance he or she believes is feasible for the covered project and the circumstances that he or she believes create a hardship or make it infeasible to fully comply with this Chapter. The exemption determination by the Director of Planning & Building shall be provided in writing to the applicant, with a revised Green Building requirements meeting the basic California Green Building Code requirements.

14.048.070. Appeal.

Any aggrieved applicant may appeal the determination of the Director of Planning & Building regarding (1) the granting or denial of an exemption pursuant to Section 14.048.060 or (2) compliance with any other provision of this Chapter. Any appeal must be filed in writing with the Director of Planning & Building no later than fourteen (14) days after the date of the exemption determination. The appeal shall state the alleged error or reason for the appeal. A timely filed appeal shall be processed and considered by the Planning Commission in accordance with the provisions of Section 20.100 of the Mill Valley Municipal Code.

SECTION 2:

Chapter 20.95, "Green Building" is hereby deleted from the Mill Valley Municipal Code in its entirety.

SECTION 3:

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4:

The City Council hereby finds that the proposed Ordinance furthers the goals set forth in the City's General Plan, including land use, conservation, sustainability and climate action.

SECTION 5:

The City Council hereby adopts the California Green Building Standards Code appendices, as they may be amended from time to time, as a City mandatory reference document and directs City staff to enforce these green building measures as mandatory green building standards within the City, as further defined in the Ordinance.

SECTION 6:

The City Council hereby finds this Ordinance is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15308 if the CEQA guidelines which exempt changes in land use regulations intended for the protection of the environment. The proposed regulations would reduce local, regional and global impacts on air and water quality, resource consumption, waste generation and habitat change.

SECTION 7:

This Ordinance shall be effective 60 days following its adoption by the City Council. A summary of this Ordinance shall, within fifteen (15) days after passage, be published in accordance with Section 36933 of the Government Code of the State of California with the names of the City Councilmembers voting for and against it.

INTRODUCED at a regular meeting of the City Council of the City of Mill Valley on the **3rd** day of **January, 2017**, and

THE FOREGOING ORDINANCE was adopted at a regular meeting of the City Council of the City of Mill Valley on this on the **17th** day of **January, 2017** by the following vote:

AYES:	Councilmembers: McEntee, Wickham, Moulton-Peters, Sloan
NOES:	Councilmembers:
ABSENT	Councilmembers: McCauley
ABSTAIN:	Councilmembers:



JESSICA SLOAN
MAYOR OF THE CITY OF MILL VALLEY

ATTEST:



KELSEY ROGERS
CITY CLERK/ADMINISTRATIVE ANALYST